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Nicholas Edge, Appellant. { Henry Hatrell,
James Ford,
Philip Hollins, Esq;
and
Tho. Swettenham, Gent } Respondents.

The Respondents C A S E.

Timothy Edge Gent. being seisd of an Estate in Horton in the County of Stafford, being part Freehold, and part Copyhold, convey'd the same to the Respondents Hollins and Swettenham and others since dead and their Heirs, To the uses of his Will and by his Will charg'd the Estate with Nine hundr'd Pounds payable to the Trustees and their Children, and gave to Mary Ford and her five Children ten Pounds *per Ann'* a peice for their lives; To the Parson of Horton and his Successors 14 l. 13 s. 4 d. forever, To the Poor of Horton 10 l. 10 s. *per Ann'* forever, and several other Legacies, and gave the Estate so Charg'd to Ralph Edge and his Issue Male, Remainder to the Appellant and his Issue Male, and died about a Month after.

The Devisees entred and enjoy'd, But the Appellant having nothing given him in present out of the said Estate, about eight or nine Years after the Death of the Testator set up a Deed of Settlement of the Freehold-part of the Estate to avoid the Will, whereby he endeavour'd to make appear that the Testator was but Tenant for life thereof, Remainder to the Appellant in Tail.

I. Trial. The Appellant brought an Ejectment upon this Title at the Trial, whereof (not being prepar'd to prove how much was Freehold) he recover'd only the Capital Mesuage.

II. Trial. A Second Action being brought, the Appellant recover'd some other small parts of the Freehold, To the value of about Thirteen Pounds *per Ann'*.

III. Trial. A third Action being brought, the great Question at the Tryal was, whether the Appellants Deed of Settlement were a True or a Meer fictitious Deed, and the principal Evidence against the Deed were the Appellants own Confession, That he had made or procur'd the same to be made, whereupon the Appellant by the Advice of his Council became *non suite*.

IV. Trial. A fourth Action being brought, the great Question at the Trial before Mr. Justice Rooksby, was; Whether the Deed of Settlement were a real or a fictitious Deed, And tho' the Jury gave a Verdict for the Appellant, Yet it was to the dissatisfaction of the Judge, and the Verdict was the next Term set aside; and a new Trial granted upon his Certificate, that the Verdict was against Evidence.

This gave the Legatees under the Will such encouragment, that they likewise brought a Cross Action of Ejectment to recover back that part of the Freehold which the Appellant had by the first two Trials recover'd, and both sides prepar'd for a fifth Trial at Summer Assizes, 1693.

The Appellant being thus involv'd in dangerous Suites, and his Title under the Deed of Settlement become very Doubtful, a new Treaty (several former Treaties having prov'd ineffectual) was set on foot for an Agreement between the Parties, But the Trustees and Legatees under the Will would make no Agreement with the Appellant, unless the Respondent Hatrell would undertake for the Appellants performance of his part of the Agreement.

The Respondent Hatrell conceiving it to be for the Appellants advantage to end these Dangerous and expensive Suites, and out of kindness to him, consented to engage himself for such performance on the Appellants part, Whereupon Articles were made and executed by the Appellant and Respondents and the other parties thereto; By which Articles it was Agreed, that the Legatees of 900 l. in consideration of 300 l. to be paid by the Respondent Hatrell should Assign to him the said 900 l. Legacies, And that the yearly Legatees should Assign to him one third part of their yearly Legacies and receive the other two Thirds, And that the Church and Poor should for the future be paid there whole yearly Legacies, That all Suites should cease, and that all Arrears aswel of yearly Legacies as mean profits should thereby be remitted and discharg'd, and the Estate put into the hands of the Respondent Hatrell to be employ'd in the performance of the Articles, and payment of certain Debts due to the said Hatrell from the Appellant by Mortgage.

Hatrell accordingly paid the 300 l. in pursuance of the Articles, and often times, desir'd the Appellant to pay or procure any Friend to pay him the Mony so paid on the Articles, and the other Mony due to him on Mortgage, Offering thereupon to transfer all his intrest to the Appellant.

But the Appellant being never satisfy'd with any thing but Law Suites, exhibited his Bill in Chancery against the Respondents to set aside the said Articles, Whereupon the Respondent Hatrell was forc'd to exhibit his Cross Bill against the Appellant to compel him to pay the Mony which Hatrell had paid upon the Articles and the other Mony due upon Mortgage or else be foreclosed.

The Causes came to be heard before the Right Honourable the late Lord Chancellor Sommers, who upon hearing thereof thought fit to dismiss the Appellants Original Bill, so far as it sought to set aside the said Articles with Costs, And Decreed the Appellant to pay the said Hatrell what was due on the said Articles and Mortgages with Costs, And upon payment thereof the Appellant was to stand in the said Hatrell's place, But in default thereof to be foreclosed, and refer'd it to a Master to take the Account.

After which an Account was stated before the Master, and kept open several Years after the Decree to give the Appellant sufficient time to pay the Mony, But upon *non* payment the foreclosure was at last made absolute.

The Respondents the Trustees humbly insist That there is no reason to reverse the said Decree and set aside the said Articles, the same being fairly and without any Surprise or Circumvention entred into by them with the Appellant to put an end to the Multiplicity of Suits, and the rather because it is now ten Years since the said Decree was pronounced, and three of the Trustees namely, Sir Tho. Bellot, Will. Parker Esq; and Thomas Rudyerd Esq; are since that time dead; and the Appellant being a Pauper wants only to be at Liberty to unravel old Accounts, and to disquiet them with Law Suits, to the hazard of the Charities to the Church and Poor, and the ruin of the Legatees and Persons concern'd.

The Respondent Hatrell humbly insists that the Decree is Just, forasmuch as it gave the Appellant the Offer and Opportunity to stand in his place upon payment of the Mony due to him if the Appellant thought fit so to do.

The Respondents therefore humbly hope that the said Decree shall be affirm'd and the Appeal dismissed with Costs.

Sam. Dodd.